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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
10/087,999	03/05/2002	Lazlo Hangody	00167-367002	5136
7590 01/20/2006		EXAMINER		
JOEL E. PETROW			REIP, DAVID OWEN	
Smith & Nephew North America 1450 Brooks Road		ART UNIT	PAPER NUMBER	
Memphis, TN 38116			3733	**

DATE MAILED: 01/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

			$\langle \gamma \rangle$			
		Application No.	Applicant(s)			
		10/087,999	HANGODY ET AL.			
	Office Action Summary	Examiner	Art Unit			
		David O. Reip	3733			
	The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply					
WHIC - Exte after - If NC - Failu Any	ORTENED STATUTORY PERIOD FOR REPLY CHEVER IS LONGER, FROM THE MAILING D. Insions of time may be available under the provisions of 37 CFR 1.1 SIX (6) MONTHS from the mailing date of this communication. Depriod for reply is specified above, the maximum statutory period or the toreply within the set or extended period for reply will, by statute reply received by the Office later than three months after the mailing ed patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tim will apply and will expire SIX (6) MONTHS from a cause the application to become ABANDONE	N. nely filed the mailing date of this communication. D (35 U.S.C. § 133).			
Status						
1)⊠	Responsive to communication(s) filed on <u>01 N</u>	ovember 2 <u>005</u> .				
,	•	action is non-final.				
3)	Since this application is in condition for allowa	nce except for formal matters, pro	secution as to the merits is			
, ==-	closed in accordance with the practice under E	Ex parte Quayle, 1935 C.D. 11, 45	53 O.G. 213.			
Disposition of Claims						
4)⊠	Claim(s) 1-32 is/are pending in the application					
	4a) Of the above claim(s) 4-10 and 16-32 is/are withdrawn from consideration.					
5)	Claim(s) is/are allowed.					
6)⊠	Claim(s) <u>1-3,11-13 and 15</u> is/are rejected.					
7)⊠	Claim(s) <u>14</u> is/are objected to.					
8)□	Claim(s) are subject to restriction and/or election requirement.					
Applicat	ion Papers					
9)☐ The specification is objected to by the Examiner.						
10) ☐ The drawing(s) filed on is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d). 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.						
11)[The oath or declaration is objected to by the Ex	caminer. Note the attached Office	Action or form PTO-152.			
•	under 35 U.S.C. § 119					
	Acknowledgment is made of a claim for foreign All b) Some * c) None of: 1. Certified copies of the priority document)-(d) or (f).			
	Certified copies of the priority document		ion No.			
	Copies of the certified copies of the prior					
	application from the International Burea		-			
* (* See the attached detailed Office action for a list of the certified copies not received.					

U.S. Patent and Trademark Office PTOL-326 (Rev. 7-05)

1) Notice of References Cited (PTO-892)

Paper No(s)/Mail Date _

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)

Attachment(s)

4) Interview Summary (PTO-413)

6) Other: ____.

Paper No(s)/Mail Date. _____.

5) Notice of Informal Patent Application (PTO-152)

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 11-13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Treacy (U.S. Pat. No. 5,716,362). Fig. 1 of Treacy shows a patella repair device having all the limitation as recited in claims 1-3, 11-13 and 15, including: a first instrument 26 including a channel (through drive holder 28) defining a longitudinal axis that extends from the channel and is capable of intersecting an anterior surface of the patella 22, a director handle 26, and a slot (through 36') configured to receive the second instrument; a second instrument 16 that is mountable to the first instrument that includes a foot 14 having a generally flat upper surface that is capable of being pressed against the posterior surface of the patella, and a central channel (the slot that allows sliding adjustment of clamping element 20) passing between the upper and lower surface of the foot 14.

Allowable Subject Matter

Claim 14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Davis (U.S. Pat. 4,235,428) shows a surgical instrument device that is capable of being used on a patella and that also anticipates under 102(b) all of claims 1-3, 11-13 and 15.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David O. Reip whose telephone number is 571-272-4702. The examiner can normally be reached on 7 A.M.- 4:30 P.M. Mon-Thu and every other Fri..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto-gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David O. Reip

Primary Examiner

AU 3733